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SENATE

{ REPORT
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CASCADE-SISKIYOU NATIONAL MONUMENT VOLUNTARY AND EQUITABLE GRAZING CONFLICT RESOLUTION ACT

JUNE 16, 2008.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 2379]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2379) to authorize the Secretary of the Interior to cancel certain grazing leases on land in Cascade-Siskiyou National Monument that are voluntarily waived by the lessees, to provide for the exchange of certain Monument land in exchange for private land, to designate certain Monument land as wilderness, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) BOX R RANCH LAND EXCHANGE MAP.—The term “Box R Ranch land exchange map” means the map entitled “Proposed Rowlett Land Exchange” and dated June 13, 2006.

(2) BUREAU OF LAND MANAGEMENT LAND.—The term “Bureau of Land Management land” means the approximately 40 acres of land administered by the Bureau of Land Management identified as “Rowlett Selected”, as generally depicted on the Box R Ranch land exchange map.

(3) DEERFIELD LAND EXCHANGE MAP.—The term “Deerfield land exchange map” means the map entitled “Proposed Deerfield-BLM Property Line Adjustment” and dated May 1, 2008.

(4) **DEERFIELD PARCEL.**—The term “Deerfield parcel” means the approximately 1.5 acres of land identified as “From Deerfield to BLM”, as generally depicted on the Deerfield land exchange map.

(5) **FEDERAL PARCEL.**—The term “Federal parcel” means the approximately 1.3 acres of land administered by the Bureau of Land Management identified as “From BLM to Deerfield”, as generally depicted on the Deerfield land exchange map.

(6) **GRAZING ALLOTMENT.**—The term “grazing allotment” means any of the Box R, Buck Lake, Buck Mountain, Buck Point, Conde Creek, Cove Creek, Cove Creek Ranch, Deadwood, Dixie, Grizzly, Howard Prairie, Jenny Creek, Keene Creek, North Cove Creek, and Soda Mountain grazing allotments in the State.

(7) **GRAZING LEASE.**—The term “grazing lease” means any document authorizing the use of a grazing allotment for the purpose of grazing livestock for commercial purposes.

(8) **LANDOWNER.**—The term “Landowner” means the owner of the Box R Ranch in the State.

(9) **LESSEE.**—The term “lessee” means a livestock operator that holds a valid existing grazing lease for a grazing allotment.

(10) **LIVESTOCK.**—The term “livestock” does not include beasts of burden used for recreational purposes.

(11) **MONUMENT.**—The term “Monument” means the Cascade-Siskiyou National Monument in the State.

(12) **ROWLETT PARCEL.**—The term “Rowlett parcel” means the parcel of approximately 40 acres of private land identified as “Rowlett Offered”, as generally depicted on the Box R Ranch land exchange map.

(13) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(14) **STATE.**—The term “State” means the State of Oregon.

(15) **WILDERNESS.**—The term “Wilderness” means the Soda Mountain Wilderness designated by section 6(a).

(16) **WILDERNESS MAP.**—The term “wilderness map” means the map entitled “Soda Mountain Wilderness” and dated May 5, 2008.

SEC. 3. VOLUNTARY GRAZING LEASE DONATION PROGRAM.

(a) EXISTING GRAZING LEASES.—

(1) DONATION OF LEASE.—

(A) **ACCEPTANCE BY SECRETARY.**—The Secretary shall accept any grazing lease that is donated by a lessee.

(B) **TERMINATION.**—The Secretary shall terminate any grazing lease acquired under subparagraph (A).

(C) **NO NEW GRAZING LEASE.**—Except as provided in paragraph (3), with respect to each grazing lease donated under subparagraph (A), the Secretary shall—

(i) not issue any new grazing lease within the grazing allotment covered by the grazing lease; and

(ii) ensure a permanent end to livestock grazing on the grazing allotment covered by the grazing lease.

(2) DONATION OF PORTION OF GRAZING LEASE.—

(A) **IN GENERAL.**—A lessee with a grazing lease for a grazing allotment partially within the Monument may elect to donate only that portion of the grazing lease that is within the Monument.

(B) **ACCEPTANCE BY SECRETARY.**—The Secretary shall accept the portion of a grazing lease that is donated under subparagraph (A).

(C) **MODIFICATION OF LEASE.**—Except as provided in paragraph (3), if a lessee donates a portion of a grazing lease under subparagraph (A), the Secretary shall—

(i) reduce the authorized grazing level and area to reflect the donation; and

(ii) modify the grazing lease to reflect the reduced level and area of use.

(D) **AUTHORIZED LEVEL.**—To ensure that there is a permanent reduction in the level and area of livestock grazing on the land covered by a portion of a grazing lease donated under subparagraph (A), the Secretary shall not allow grazing to exceed the authorized level and area established under subparagraph (C).

(3) COMMON ALLOTMENTS.—

(A) **IN GENERAL.**—If a grazing allotment covered by a grazing lease or portion of a grazing lease that is donated under paragraph (1) or (2) also is covered by another grazing lease that is not donated, the Secretary shall reduce the grazing level on the grazing allotment to reflect the donation.

(B) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the level of livestock grazing on the land covered by the grazing lease or portion of a grazing lease donated under paragraph (1) or (2), the Secretary shall not allow grazing to exceed the level established under subparagraph (A).

(b) LIMITATIONS.—The Secretary—

(1) with respect to the Agate, Emigrant Creek, and Siskiyou allotments in and near the Monument—

(A) shall not issue any grazing lease; and

(B) shall ensure a permanent end to livestock grazing on each allotment; and

(2) shall not establish any new allotments for livestock grazing that include any Monument land (whether leased or not leased for grazing on the date of enactment of this Act).

(c) EFFECT OF DONATION.—A lessee who donates a grazing lease or a portion of a grazing lease under this section shall be considered to have waived any claim to any range improvement on the associated grazing allotment or portion of the associated grazing allotment, as applicable.

SEC. 4. BOX R RANCH LAND EXCHANGE.

(a) IN GENERAL.—For the purpose of protecting and consolidating Federal land within the Monument, the Secretary—

(1) may offer to convey to the Landowner the Bureau of Land Management land in exchange for the Rowlett parcel; and

(2) if the Landowner accepts the offer—

(A) the Secretary shall convey to the Landowner all right, title, and interest of the United States in and to the Bureau of Land Management land; and

(B) the Landowner shall convey to the Secretary all right, title, and interest of the Landowner in and to the Rowlett parcel.

(b) SURVEYS.—

(1) IN GENERAL.—The exact acreage and legal description of the Bureau of Land Management land and the Rowlett parcel shall be determined by surveys approved by the Secretary.

(2) COSTS.—The responsibility for the costs of any surveys conducted under paragraph (1), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and the Landowner.

(c) CONDITIONS.—The conveyance of the Bureau of Land Management land and the Rowlett parcel under this section shall be subject to—

(1) valid existing rights;

(2) title to the Rowlett parcel being acceptable to the Secretary and in conformance with the title approval standards applicable to Federal land acquisitions;

(3) such terms and conditions as the Secretary may require; and

(4) except as otherwise provided in this section, any laws (including regulations) applicable to the conveyance and acquisition of land by the Bureau of Land Management.

(d) APPRAISALS.—

(1) IN GENERAL.—The Bureau of Land Management land and the Rowlett parcel shall be appraised by an independent appraiser selected by the Secretary.

(2) REQUIREMENTS.—An appraisal conducted under paragraph (1) shall be conducted in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisition; and

(B) the Uniform Standards of Professional Appraisal Practice.

(3) APPROVAL.—The appraisals conducted under this subsection shall be submitted to the Secretary for approval.

(e) GRAZING ALLOTMENT.—As a condition of the land exchange authorized under this section, the lessee of the grazing lease for the Box R grazing allotment shall donate the Box R grazing lease in accordance with section 3(a)(1).

SEC. 5. DEERFIELD LAND EXCHANGE.

(a) IN GENERAL.—For the purpose of protecting and consolidating Federal land within the Monument, the Secretary—

(1) may offer to convey to Deerfield Learning Associates the Federal parcel in exchange for the Deerfield parcel; and

(2) if Deerfield Learning Associates accepts the offer—

(A) the Secretary shall convey to Deerfield Learning Associates all right, title, and interest of the United States in and to the Federal parcel; and

(B) Deerfield Learning Associates shall convey to the Secretary all right, title, and interest of Deerfield Learning Associates in and to the Deerfield parcel.

(b) SURVEYS.—

(1) IN GENERAL.—The exact acreage and legal description of the Federal parcel and the Deerfield parcel shall be determined by surveys approved by the Secretary.

(2) COSTS.—The responsibility for the costs of any surveys conducted under paragraph (1), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and Deerfield Learning Associates.

(c) CONDITIONS.—

(1) IN GENERAL.—The conveyance of the Federal parcel and the Deerfield parcel under this section shall be subject to—

(A) valid existing rights;

(B) title to the Deerfield parcel being acceptable to the Secretary and in conformance with the title approval standards applicable to Federal land acquisitions;

(C) such terms and conditions as the Secretary may require; and

(D) except as otherwise provided in this section, any laws (including regulations) applicable to the conveyance and acquisition of land by the Bureau of Land Management.

(d) APPRAISALS.—

(1) IN GENERAL.—The Federal parcel and the Deerfield parcel shall be appraised by an independent appraiser selected by the Secretary.

(2) REQUIREMENTS.—An appraisal conducted under paragraph (1) shall be conducted in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisition; and

(B) the Uniform Standards of Professional Appraisal Practice.

(3) APPROVAL.—The appraisals conducted under this subsection shall be submitted to the Secretary for approval.

SEC. 6. SODA MOUNTAIN WILDERNESS.

(a) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), approximately 24,100 acres of Monument land, as generally depicted on the wilderness map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the “Soda Mountain Wilderness”.

(b) MAP AND LEGAL DESCRIPTION.—

(1) SUBMISSION OF MAP AND LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Wilderness with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE AND EFFECT.—

(A) IN GENERAL.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct any clerical or typographical error in the map or legal description.

(B) NOTIFICATION.—The Secretary shall submit to Congress notice of any changes made in the map or legal description under subparagraph (A), including notice of the reason for the change.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) ADMINISTRATION OF WILDERNESS.—

(1) IN GENERAL.—Subject to valid existing rights, the Wilderness shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in the Wilderness Act to the effective date of the Wilderness Act shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(2) FIRE, INSECT, AND DISEASE MANAGEMENT ACTIVITIES.—Except as provided by Presidential Proclamation Number 7318, dated June 9, 2000 (65 Fed. Reg. 37247), within the wilderness areas designated by this Act, the Secretary may take such measures in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) as are necessary to control fire, insects, and diseases, subject

to such terms and conditions as the Secretary determines to be desirable and appropriate.

(3) **LIVESTOCK.**—Except as provided in section 3 and by Presidential Proclamation Number 7318, dated June 9, 2000 (65 Fed. Reg. 37247), the grazing of livestock in the Wilderness, if established before the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as are considered necessary by the Secretary in accordance with—

(A) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(B) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(4) **FISH AND WILDLIFE MANAGEMENT.**—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act affects the jurisdiction of the State with respect to fish and wildlife on public land in the State.

(5) **INCORPORATION OF ACQUIRED LAND AND INTERESTS.**—Any land or interest in land within the boundary of the Wilderness that is acquired by the United States shall—

(A) become part of the Wilderness; and

(B) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

SEC. 7. EFFECT.

Nothing in this Act—

(1) affects the authority of a Federal agency to modify or terminate grazing permits or leases, except as provided in section 3;

(2) authorizes the use of eminent domain;

(3) creates a property right in any grazing permit or lease on Federal land;

(4) establishes a precedent for future grazing permit or lease donation programs; or

(5) affects the allocation, ownership, interest, or control, in existence on the date of enactment of this Act, of any water, water right, or any other valid existing right held by the United States, an Indian tribe, a State, or a private individual, partnership, or corporation.

PURPOSE

The purposes of S. 2379 are to authorize the Secretary of the Interior to accept and terminate Federal grazing lessees within and near the Cascade-Siskiyou National Monument in Oregon that are voluntarily donated, to designate the approximately 24,100-acre Soda Mountain Wilderness, and to authorize the exchange of certain land within the National Monument.

BACKGROUND AND NEED

Located in southwestern Oregon along the Oregon-California border, the 52,000 acre Cascade-Siskiyou National Monument (“Monument”) was established by President Clinton in June of 2000 under the authority of the Antiquities Act. As noted in the presidential proclamation establishing the Monument, the Monument includes towering fir forests, sunlit oak groves, wildflower-strewn meadows, and steep canyons. The Monument—which is managed by the Bureau of Land Management (“BLM”)—encompasses a cross-section of the Cascade, Klamath, and Siskiyou ecoregions, an area of unique geology, biology, climate, and topography.

The Monument includes grass and shrublands, oak woodlands, juniper scablands, mixed conifer and white fir forests, wet meadows, and stream bottoms that support broad-leaf deciduous riparian trees and shrubs. It provides important habitat for many different types of animals, including old-growth habitat crucial to the threatened northern spotted owl and numerous other bird species, and important winter habitat for deer. It also includes one of the highest diversities of butterfly species in the United States and

contains important populations of small mammal, reptile, and amphibian species.

The proclamation establishing the Monument directed the Secretary of the Interior to “study the impacts of livestock grazing on the objects of biological interest in the Monument with specific attention to sustaining the natural ecosystem dynamics.” Proclamation No. 7318 (June 9, 2000), 65 Fed. Reg. 37,247. Currently, eleven ranchers hold grazing leases for 2,714 active animal unit months within the Monument. The proclamation allowed existing grazing leases to continue, but provided that if grazing is found incompatible with protecting the objects of biological interest, the Secretary is directed to retire the grazing allotments pursuant to the processes of applicable law. It also provides that, “should grazing permits or leases be relinquished by existing holders, the Secretary shall not reallocate the forage available under such permits or for livestock grazing purposes unless the Secretary specifically finds, pending the outcome of the study, that such reallocation will advance the purposes of the proclamation.”

On January 24, 2008, the BLM announced that it had completed its livestock impact studies for the Monument. The findings from the studies, and all other available data, will be used to determine whether the allotments are meeting the standards for rangeland health. This information also will be used to determine if livestock grazing is consistent with the proclamation.

A final decision to maintain, modify, or cancel (retire) the existing grazing lease authorizations is scheduled for the end of 2008. Initial summaries of the study note that the Monument has experienced 150 years of livestock influence; that the pattern, seasonality, and intensity of use have changed over time; that there have been many range-related activities over time (mechanical scarification, herbicide/fertilizer application, prescribed fire seeding); that over 50 non-native forbs and grasses have been introduced since 1950; and that intense use by livestock, deer, and elk excludes certain macro-invertebrate species considered intolerant of disturbance.

To facilitate the timely end of grazing activities within the Monument, S. 2379 authorizes the Secretary to accept and terminate donated Federal grazing leases. The bill also designates approximately 23,000 acres within the Monument as the Soda Mountain Wilderness, and authorizes two land exchanges within the Monument.

LEGISLATIVE HISTORY

S. 2379 was introduced by Senators Smith and Wyden on November 16, 2007. The Subcommittee on Public Lands and Forests held a hearing on the bill on February 27, 2008. At its business meeting on May 7, 2008, the Committee on Energy and Natural Resources ordered S. 2379 favorably reported, with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 7, 2008, by a voice vote of a quorum present, recommends that the Senate pass S. 2379, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 2379, the Committee adopted an amendment in the nature of a substitute. The amendment excludes provisions from the bill that would have provided Federal compensation for lessees that waived their grazing leases, and instead includes direction to the Secretary to terminate leases and reduce livestock grazing levels if leases are voluntarily donated. The amendment also includes authorization to carry out the Deerfield land exchange, and makes other technical and conforming changes. The amendment is described in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title of the bill.

Section 2 contains the definitions for the bill.

Section 3(a) provides for the donation, acceptance, and termination of certain grazing leases. This section is intended to reflect that portion of the proclamation that provides that “should grazing permits or leases be relinquished by existing holders, the Secretary shall not reallocate the forage available under such permits or for livestock grazing purposes.” The Committee notes that decisions made under this section should be transparent and that information regarding the donations and subsequent decisions should be available to the public.

Paragraph (1) directs the Secretary to accept and terminate any grazing lease that is donated in its entirety. Subparagraph (C) directs the Secretary to permanently end livestock grazing on the grazing allotment covered by a lease donated under subparagraph (A), unless the allotment is a common allotment covered by another lease that is not donated (which is governed by paragraph (3)).

Paragraph (2) establishes that a lessee is permitted to donate only that portion of a grazing lease that is within the Monument. In that case, the Secretary is directed to accept the portion of the grazing lease that authorizes grazing within the Monument. Unless the allotment is a common allotment covered by another lease that is not donated (which is governed by paragraph (3)), the Secretary is directed to modify the lease to ensure a permanent end to livestock grazing on the portion of the grazing allotment that is within the Monument. The Secretary also is directed to reduce the authorized grazing level for the lease to reflect the donation of the portion of the grazing lease within the Monument. This provision clarifies that the donation of the portion of the lease within the Monument will not affect the portion of the lease that is outside of the Monument (i.e. either by allowing for an increase or requiring a decrease in grazing levels outside of the Monument as a result of the donation).

Paragraph (3) governs the donation of one lease—or a portion of one lease within the Monument—for a common allotment. In such a case, the Secretary is directed to reduce both the authorized grazing level and the actual grazing level on the grazing allotment to reflect the donation of the lease. The Secretary also is directed to ensure that the reduction in the authorized and actual level of grazing on the allotment is permanent. This provision is intended to make clear that the remaining lease will neither be disadvan-

tagged nor advantaged by the donation of the other lease. The requirement for the Secretary to reduce the actual level of grazing on the allotment reflects that intent, as it would be inconsistent with this provision if the remaining lessee were permitted to increase grazing levels as a result of the donation of the other lease and the termination of the grazing that occurred under it.

Subsection (b) directs the Secretary to keep the Agate, Emigrant Creek, and Siskiyou allotments permanently free of livestock grazing. It also directs the Secretary to not establish any new grazing allotments within the Monument. This provision ensures that all land within the Monument that is not currently leased for grazing remains permanently free of livestock grazing and that no additional allotments will be established to expand livestock grazing.

Subsection (c) establishes that a lessee that donates a grazing lease or a portion of a grazing lease waives any claim to any range improvement associated with the grazing allotment or portion of the grazing allotment.

Section 4(a) authorizes the Secretary to exchange approximately 40 acres of BLM land for approximately 40 acres of private land to facilitate the reduction of grazing in accordance with section 3, to improve management, and to otherwise further the protective purposes of the Monument.

Subsection (b) requires surveys to determine the exact acreage and legal description of the land to be exchanged, and directs the parties to determine the appropriate allocation of costs.

Subsection (c) states that the exchange shall be subject to (1) valid existing rights, (2) the title being in a form acceptable to the Secretary and in conformance with applicable standards, (3) such terms and conditions as the Secretary may require to further public interests, and (4) applicable law (including section 206 of the Federal Land Policy and Management Act, which includes, for example, provisions that govern equalization of values, determination of costs, and the status of acquired lands).

Subsection (d) requires the land to be appraised by an independent appraiser that is selected by the Secretary, and that the appraisal be conducted in accordance with standard practices and approved by the Secretary.

Subsection (e) requires the lessee of the Box R grazing allotment to donate the entire grazing lease for the allotment pursuant to section 3(a)(1) as a condition of carrying out the exchange.

Section 5(a) authorizes the Secretary to exchange approximately 1.3 acres of BLM land for approximately 1.5 acres of private land to resolve an inadvertent trespass in a manner that benefits the Monument.

Subsection (b) requires surveys to determine the exact acreage and legal description of the land to be exchanged, and directs the parties to determine the appropriate allocation of costs (considering, for example, whether the origin of the trespass was a result of a private error or a Federal error).

Subsection (c) states that the exchange shall be subject to (1) valid existing rights, (2) the title being in a form acceptable to the Secretary and in conformance with applicable standards, (3) such terms and conditions as the Secretary may require to further public interests, and (4) applicable law (such as section 206 of the Federal Land Policy and Management Act, which includes, for example,

provisions that govern equalization of values, determination of costs, and the status of acquired lands).

Subsection (d) requires the land to be appraised by an independent appraiser that is selected by the Secretary, and that the appraisal be conducted in accordance with standard practices and approved by the Secretary.

Section 6(a) designates approximately 24,100 acres of BLM land within the Monument as the Soda Mountain Wilderness.

Subsection (b) directs the Secretary to file a map and legal description of the wilderness with the appropriate congressional committees, authorizes the Secretary to correct any clerical or typographical errors in the map or legal description, and requires the map and legal description to be kept on file and available to the public in the appropriate offices of the BLM.

Subsection (c) provides for the administration of the Soda Mountain Wilderness. The Committee also notes that nothing in the bill creates a protective perimeter or buffer zone around the wilderness, and the fact that a nonwilderness activity or use can be seen or heard from the wilderness does not preclude the conduct of the activity or use outside the boundary of the wilderness.

Paragraph (1) directs the Secretary to administer the wilderness in accordance with the Wilderness Act and subject to valid existing rights.

Paragraph (2) clarifies that the Secretary may control fire, insects and diseases in the wilderness in a manner that is in accordance with the Wilderness Act and the proclamation establishing the Monument.

Paragraph (3) clarifies that livestock grazing in the wilderness shall be permitted to continue in a manner that is in accordance with the Wilderness Act, the proclamation, and the specified guidelines. Section 3 of the bill also provides applicable direction for grazing administration within the wilderness.

Paragraph (4) clarifies that nothing in this Act affects the jurisdiction of the State of Oregon with respect to fish and wildlife.

Paragraph (5) clarifies that any land or interest in land that is acquired within the boundary of the wilderness shall become part of the wilderness.

Section (7) includes five savings clauses.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

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S. 2379 would create a program to reduce grazing within the Cascade-Siskiyou National Monument in Oregon. In addition, the bill also would establish the Soda Mountain Wilderness on about 24,000 acres of land within the monument and authorize two land exchanges with nearby landowners. Based on information provided by the Bureau of Land Management (BLM), CBO estimates that implementing S. 2379 would have no significant effect on federal spending and would not affect revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

S. 2379 would direct BLM to accept donations of existing grazing leases on monument lands if the holders of those leases choose to donate them. The agency would then retire grazing allotments (or portions of allotments) on those areas. Also, BLM would convey to two private landowners around 40 acres of land within the monument in exchange for similar acreage and would retire the grazing lease that would be donated by one of the owners as a condition of exchange. Responsibility for the costs of the exchanges, such as appraisal fees, would be negotiated by the agency and the landowners.

CBO estimates that accepting donations of grazing leases under S. 2379 would have no significant effect on the federal budget. Currently, BLM earns offsetting receipts of less than \$5,000 annually on all of the grazing leases that might be terminated under the bill. No other receipts are earned on the federal land to be exchanged under the bill, and the federal share of costs—if any—related to the two exchanges would be minimal.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2379. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2379, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2379 does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The views of the Administration were included in testimony received by the Committee at a hearing on S. 2379 on February 27, 2008, which is printed below.

STATEMENT OF LUKE JOHNSON, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT

Thank you for the opportunity to testify on S. 2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act. While we support the goals of this legislation we cannot support some of the specific provisions. We would like the opportunity to work

with the sponsor and the Committee to address these issues.

BACKGROUND

The Cascade-Siskiyou National Monument (Monument) was established by Presidential Proclamation on June 9, 2000. Encompassing nearly 53,000 acres of Federal land managed by the Bureau of Land Management (BLM), the Monument is a place of great biological diversity due to its location at the confluence of three converging mountain ecoregions—the Cascade, Klamath and Eastern Cascade. The proclamation withdrew these public lands from a number of uses and limited commercial harvest of timber within the Monument “except when part of an authorized science-based ecological restoration project.” Additionally, the proclamation directed the Secretary of the Interior to undertake a study of livestock grazing within the Cascade-Siskiyou National Monument and the effects of grazing on the Monument with specific attention to sustaining the natural ecosystem dynamics.

The BLM has been managing the Monument consistent with the proclamation for nearly eight years. A comprehensive management plan is currently pending final approval. Additionally, the BLM recently completed the mandated studies of livestock impacts within the Monument and released them to the public. The findings of these studies are currently being evaluated by the BLM, along with other available data, to determine whether grazing is occurring consistent with the Presidential Proclamation establishing the Monument. Currently 11 ranchers hold grazing leases within the Monument that authorize use of 2,714 active animal unit months (AUMs).

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S. 2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act, provides for: a Federal buyout of grazing preferences within the Monument; a land exchange within the Monument between the BLM and a private landowner; and, the designation of approximately 23,000 acres of land within the Monument as wilderness. The bill as introduced references maps without dates. It is our understanding that it is the sponsor’s intention to reference a map created by the BLM at the request of his office. This testimony is based on that map dated December 12, 2006.

Section 4 of S. 2379 establishes a program to buy out grazing lessees within the Monument, requiring the Secretary (subject to the availability of funds) to offer payment of \$300 an AUM to ranchers with authorized grazing within the Monument. If an individual rancher accepts the payment, the Secretary then must terminate the grazing lease and permanently end grazing in the allotment or portion of the grazing allotment. Donation of grazing leases, and subsequent mandatory grazing closures, are also contained in the bill. In addition, the BLM is obli-

gated under the bill to construct and maintain fencing to exclude livestock from grazing allotments where the BLM may no longer lease grazing use. Finally, three grazing allotments that have been vacant for over a decade are permanently retired from grazing by the legislation.

The BLM is opposed to Federal government buyouts of grazing permits and the permanent retirement of those permits. However, the BLM also recognizes the value of working cooperatively and collaboratively with local stakeholders to fulfill its multiple use mission on BLM lands. The BLM is committed to working with the Committee, the sponsors, and stakeholders in the spirit of cooperative conservation within our existing authority.

In addition, we are opposed to language obligating the Federal government to both construction and maintenance of fencing. Typically, fencing decisions are made cooperatively by the BLM and the permittee, and the BLM encourages cooperative cost sharing. The BLM's range improvement policy requires that the BLM assign maintenance of structural range improvements, such as fences, to the permittee who is obligated to maintain them. This legislation represents a serious divergence from two decades of land management practices.

Section 5 of the bill provides for a land exchange between the BLM and the Box R Ranch. We believe that the public interest would be served by this exchange; however, we recommend that the bill be amended to ensure that the exchange is consistent with section 206 of the Federal Land Policy Management Act regarding government land exchanges, including appraisals and equal value exchange. Appraisals should follow nationally recognized appraisal standards, such as the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. The owner of Box R Ranch is obligated under Section 5 to donate his grazing lease to the Federal government. It is unclear if the intent is to value the grazing lease as part of the exchange. As noted above, we believe the exchange should independently stand on its own.

The BLM-managed land proposed for exchange is an isolated parcel of land surrounded by the Box R Ranch. The private land proposed for exchange to the Federal government is important habitat for Jenny Creek suckers and redband trout (both sensitive fish species), and its acquisition is consistent with the goals of the Monument. We should note that both parcels are within the Monument boundary.

Section 6 of S. 2379, designates approximately 23,000 acres of BLM-managed land within the Monument as the Soda Mountain Wilderness (this includes the present Soda Mountain Wilderness Study Area (WSA)). The proposed Soda Mountain Wilderness hosts an unusually high variety of species in a geographically small area due to several complex biological and geological factors and processes operating simultaneously. Ranging from 2,300 feet to 6,000

feet, the proposed wilderness area is a jewel of biological variety and encompasses some of the most diverse vegetation in the Cascade-Siskiyou National Monument. Plant communities include open grassy slopes and meadows, hardwood and shrub woodlands, as well as dense mixed conifer and white fir forests. The Oregon Gulch Research Natural Area, with its mixed conifer Douglas-fir and Ponderosa forest with large Sugar Pine and incense cedar, and Scotch Creek Research Natural Area, with steep-sided drainages and waterfalls, are within the proposed wilderness. Along with one of the highest diversities of butterfly species in the United States (as many as 112 different species have been identified within the Monument), the area is also home to an extensive population of small and large mammals (including black-tailed deer, elk, bear, mountain lions and bobcats), as well as widespread fish species in the many creeks. The area provides critical habitat for several sensitive, rare, threatened, and/or endangered species such as peregrine falcons, northern spotted owls, Greene's mariposa lily, Gentner's fritillary, Bellinger's meadow foam, redband trout, and the Mardon skipper butterfly.

Congress has the sole authority to designate lands to be managed permanently as wilderness. We believe these areas are manageable as wilderness, and we support the designation. There are some technical issues related to section 6 that we would like the opportunity to clarify. In particular, we would like the opportunity to work with the sponsor and the Committee on possible minor boundary adjustments to ensure efficient manageability and avoid conflicts.

Section 8 of the bill authorizes appropriations for compensation for grazing buyouts, fencing and other costs to exclude cattle from allotments that are retired. We oppose this section, and note that the amounts authorized appear insufficient to complete the work anticipated by the bill and that the BLM does not have alternative sources of funding. In addition, the authorized amounts are not included in the FY2009 President's Budget request and are not available within current Congressional appropriations.

In addition to the specific issues we have raised, there are a number of minor or technical modifications (including mapping issues) that we would like to discuss with the sponsor, as well as the Committee, before this legislation moves forward.

Thank you for the opportunity to testify. I will be happy to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2379 as ordered reported.